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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,064	12/08/2004	Axel Pfeffer	OT-4995	1608

7590

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EXAMINER

MCCALL, ERIC SCOTT

ART UNIT PAPER NUMBER

2855

DATE MAILED: 03/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,064

Applicant(s)

PFEFFER, AXEL

Examiner

Eric S. McCall

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 July 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>July 09, 2004</u> . | 6) <input type="checkbox"/> Other: ____ |

BRAKE LINING MONITORING DEVICE AND METHOD

FIRST OFFICE ACTION

DRAWINGS

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the reference character “4” which is not mentioned in the description.

Also, the drawings are objected to under 37 CFR 1.83(a) because the drawings must show every feature of the invention specified in the claims. Therefore, the various claimed features must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures.

Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the Examiner, the Applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

SPECIFICATION

The specification is objected to because the specification fails to include the proper headings in accordance with 37 CFR 1.77(b).

DECLARATION

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Receipt is acknowledged of papers filed under 35 U.S.C. 119 (a)-(d) based on an application filed in Germany on Jan. 11, 2002. However, the Applicant has not complied with the requirements of 37 CFR 1.63(c), since the oath, declaration or application data sheet does not acknowledge the filing of any foreign application. A new oath, declaration or application data sheet is required in the body of which the present application should be identified by application number and filing date.

CLAIMS

Objections

Claims 1-13 are objected to because the claims are replete with phrases which lack antecedent basis. Appropriate correction is required.

35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4, 12, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

The phrase “the new material” in claim 1 is indefinite as to which material is being referred to.

Both claims 12 and 13 are indefinite as to the specific meaning thereof since the claims only set forth an intended use of the claimed brake.

35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Paielli (6,384,721).

With respect to claim 1, Paielli sets forth a method of monitoring functionability of a brake lining, comprising the following steps:

measuring a value (ie. capacitance) that characterizes a dielectric constant of a lining material;

comparing the measured value (ie. measured capacitance) with a reference value (ie. capacitance for a given dielectric constant) for a new material; and

determining the functionability when the measured value is within a specific tolerance range (col. 3, lines 30+ and col. 4, lines 55+).

With respect to claim 2, Paielli suggests that the dielectric constant is determined by a static capacitance measurement (via the conductors 24 & 26).

With respect to claim 4, Paielli sets forth a brake lining with at least two conductors (24 & 26) located in the lining material.

With respect to claim 5, as set forth above, Paielli clearly sets forth the claimed subject matter thereof.

With respect to claim 6, Paielli sets forth that the conductors (24 & 26) are essentially arranged in a plane which is essentially parallel to the braking surface of the brake lining as claimed (Fig. 1).

With respect to claim 7, the conductors (24 & 26) of Paielli are interpreted as being made of foil material as claimed.

With respect to claim 8, Paielli set forth that the conductors (24 & 26) are imbedded in the brake lining material so that the latter is present on both sides of the conductors in the wear direction of the brake lining (Fig. 1).

With respect to claims 9 and 10, as set forth above, Paielli clearly sets forth the claimed subject matter thereof.

With respect to claim 11, Paielli suggests that the brake lining monitoring device comprises a resistance which, in conjunction with the capacitance emitted by the at least two conductors, forms an oscillating circuit (Figs. 8-10).


With respect to claims 12 and 13, Paielli suggests the claimed subject matter thereof because the use of the brake in an elevator is deemed as merely an intended use of the brake and thus has not been given patentable weight.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Eric S. McCall whose telephone number is (571) 272-2183.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Eric S. McCall
Primary Examiner
Art Unit 2855
Feb. 23, 2006